

## REMARKS

### I. Status of Claims

Claims 1-299 have been canceled herein without prejudice. Claims 300-317 have been added and are the only pending claims.

Support for new claims 300-317 can be found in the application as originally filed.

For the Examiner's convenience, Applicants point out in the following Table 1, the specific written description support in the specification for the elements of claims 300-317.

**Table 1.**

<u>Element</u>	<u>Support in Specification</u>
A method for making up lips comprising applying to said lips a lipstick composition comprising	See page 2, third full paragraph, stating, "[t]he invention also provides for a cosmetic process for . . . making up . . . a keratinous material comprising applying to at least one keratinous material a composition . . . . As used herein, 'keratinous material' is meant to comprise . . . lips . . . ." Page 4, first full paragraph, further discloses that the composition may be in the form of "a lipstick product."
at least one liquid fatty phase	See page 17, starting with the section entitled "Liquid Fatty Phase," through page 21, first paragraph.
at least one oil soluble polymer chosen from polymers of formula (I):  $\begin{array}{c} \text{R}^4 \quad \text{R}^4 \\   \quad   \\ \text{R}^1\text{--O--}[\text{--}\underset{\text{O}}{\underset{  }{\text{C}}}\text{--}\text{R}^2\text{--}\underset{\text{O}}{\underset{  }{\text{C}}}\text{--}\text{N--R}^3\text{--}\text{N--}]_n\text{--}\underset{\text{O}}{\underset{  }{\text{C}}}\text{--}\text{R}^2\text{--}\underset{\text{O}}{\underset{  }{\text{C}}}\text{--O--R}^1 \end{array} \quad (\text{I})$	See page 10, second full paragraph to the paragraph bridging pages 10 and 11.
in which n denotes a number of amide units, such	

that the number of ester groups represents from 10% to 50% of the total number of ester and amide groups; R <sup>1</sup> is, in each case, independently an alkyl or alkenyl group having at least 4 carbon atoms; R <sup>2</sup> independently represents, in each case, a C <sub>4</sub> to C <sub>42</sub> hydrocarbonaceous group, provided that 50% of the R <sup>2</sup> groups represent a C <sub>30</sub> to C <sub>42</sub> hydrocarbonaceous group; R <sup>3</sup> independently represents, in each case, an organic group provided with at least 2 carbon atoms, with hydrogen atoms and optionally with one or more oxygen or nitrogen atoms; and R <sup>4</sup> independently represents, in each case, a hydrogen atom, a C <sub>1</sub> to C <sub>10</sub> alkyl group or a direct bond to R <sup>3</sup> or another R <sup>4</sup> , so that the nitrogen atom to which both R <sup>3</sup> and R <sup>4</sup> are bonded forms part of a heterocyclic structure defined by R <sup>4</sup> -N-R <sup>3</sup> , with at least 50% of the R <sup>4</sup> groups representing a hydrogen atom;	
at least one oil-soluble polymer chosen from alkyl celluloses and alkylated guar gums;	See page 21, first full paragraph, which states, "[t]he compositions of the invention may further comprise at least one oil-soluble polymer chosen from alkylated guar gums and alkyl celluloses.
at least one coloring agent.	Page 29, fourth paragraph, disclosing that "[t]he compositions of the invention may also comprise at least one coloring agent . . . ."
wherein the alkyl cellulose is ethylcellulose	Page 21, second paragraph, states, "alkyl cellulose[ ] may be chosen from, for example, ethylcellulose . . . ."
wherein the alkylated guar gums are chosen from C <sub>1</sub> -C <sub>5</sub> alkyl galactomannans	Page 21, second paragraph, states, "[a]llylated guar gums include, for example, . . . C <sub>1-5</sub> alkyl galactomannans . . . ."
wherein the alkylated guar gums are chosen from ethyl guar	Page 21, second paragraph, states, "[a]llylated guar gums include, for example, ethyl guar . . . ."
wherein the at least one liquid fatty phase further comprises a silicone oil	Page 28, first paragraph, discloses that "[t]he liquid fatty phase, in one embodiment, contains . . . silicone oils . . . ."
wherein said lipstick composition further	See page 1, first paragraph,

comprises at least one fatty alcohol	stating that "[t]he compositions may further comprise at least one fatty alcohol."
wherein the at least one fatty alcohol is chosen from C <sub>8</sub> to C <sub>26</sub> fatty alcohols	Page 23, fourth full paragraph, states that "[t]he at least one fatty alcohol may be chosen from, for example, C <sub>8</sub> to C <sub>26</sub> . . . fatty alcohols."
wherein the at least one fatty alcohol is chosen from C <sub>12</sub> to C <sub>22</sub> fatty alcohols	Page 23, fourth full paragraph, states that "[t]he at least one fatty alcohol may be chosen from, for example, . . . C <sub>12</sub> to C <sub>22</sub> . . . fatty alcohols."
wherein the C <sub>12</sub> to C <sub>20</sub> fatty alcohols are chosen from myristyl alcohol, cetyl alcohol, stearyl alcohol, and behenyl alcohol	Page 23, fourth full paragraph, states that, "[i]n one embodiment, the at least one fatty alcohol is chosen from myristyl, cetyl, stearyl, and behenyl alcohol."
at least one polymer chosen from ethylenediamine/stearyl dimer tallate copolymer	See page 12, fourth paragraph, reciting Uniclear and that Uniclear "may be mixtures of copolymers derived from monomer of (i) C <sub>36</sub> diacids and (ii) ethylenediamine." See also <u>International Cosmetic Ingredient Dictionary and Handbook</u> ("CTFA") page 606 (attached herewith as Exhibit 1), reciting that ethylenediamine/stearyl dimer tallate copolymer is at least one copolymer of ethylenediamine and tall oil dimer acid monomers, end-blocked with stearyl alcohol and further reciting that a trade name for ethylenediamine/stearyl dimer tallate copolymer is Uniclear. Thus, the specification reasonably conveys the use of at least one ethylenediamine/stearyl dimer tallate copolymer to make a mascara and the use for making-up eyelashes using a mascara comprising at least one ethylenediamine/stearyl dimer tallate copolymer.

The Title and Abstract have been amended to more accurately describe the presently claimed invention. Support for the new Title and Abstract can be found throughout the application as originally filed, and as discussed above. Accordingly, no new matter has been added.

## **II. Rejections under 35 U.S.C. § 103**

### **A. Ross in view of Arnaud**

Claims 1-27, 40-46, 50-63, 66, 69-111, 131-138, 142-155, 187-213, 226-281, 286, and 289-299 have been rejected under 35 U.S.C. § 103 as obvious over U.S. Patent No. 5,500,209 to Ross et al. ("Ross") in view of U.S. Patent No. 5,908,631 to Arnaud et al. ("Arnaud"). Applicants note that all of the rejected claims have been canceled herein. In the interest of advancing prosecution, however, Applicants have considered the rejection in conjunction with the newly added claims 300-317, and have determined that the instant claims are not anticipated by nor rendered obvious over Ross in view of Arnaud.

According to the Examiner, "Ross discloses compositions containing [a] polyamide-gelling agent," such as Macromelt 6212. Office Action at 2, citing Ross, col. 14, ll. 52-53.

The Examiner admits that "Ross does not mention oil-soluble polymer[s]," yet attempts to rectify this deficiency in Ross with Arnaud, stating that "Arnaud discloses [a] mono[h]ydric alcohol free composition comprising solubilized ethyl cellulose for topical use." Office Action at 2. The Examiner then concludes that "[i]t would have been

obvious to add to the composition of Ross, the ethyl cellulose (of Arnaud) to enhance adhesion, durability[,] viscosity and hydrophobicity efficacy.” *Id.*

No *prima facie* case of obvious has been established, however, over new claims 300-317. In order to establish such a *prima facie* case, the Examiner must, among other things, show that the prior art reference or references teaches or suggests all of the claim limitations. M.P.E.P. § 2143. This the Examiner cannot do.

Applicants note that instant claim 300 is different from the rejected claims in that it is specifically directed to at least one polymer chosen from polymers of formula (I). As the Examiner admits, “Ross (together with Arnaud), fails to mention [the] structural polymer of the (claimed) structure of instant claim 28 [which is directed to formula (I)].” Office Action at 2.

Indeed, all of the newly added claims are directed towards a polymer of formula (I) or a species of such a polymer. The Examiner has thus failed to establish that Ross in view of Arnaud teaches or suggests this polymer, and therefore, Applicants respectfully assert that the instant claims are not anticipated by or obvious over the cited art.

**B. Ross in view of Arnaud and further in view of Pavlin**

Claims 28-39, 112-130, and 214-225 have been rejected under 35 U.S.C. § 103 as obvious over Ross in view of Arnaud and further in view of U.S. Patent No. 5,783,657 to Pavlin et al. (“Pavlin”). Relying on both Ross and Arnaud, the Examiner, as discussed above, admits that neither Ross nor Arnaud teaches or suggests the structural polymer as claimed in claim 28, comprising a polymer of formula (I). The Examiner, however, relies on Pavlin for “disclos[ing] ester-terminated polyamides of

polymerized fatty acids useful in gels.” Office Action at 3. Thus, the Examiner concludes that “it would have been obvious from [the] teachings of Pavlin that the polymer of Ross can be represented by a formula as shown by Pavlin.” *Id.*

In addition to establishing that the references teach or suggest each and every claim element, in order to demonstrate a *prima facie* case of obviousness, the Examiner must further establish that there exists some suggestion or motivation, either in the prior art references or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. M.P.E.P. § 2143. There is no such teaching or suggestion in Ross, Arnaud, Pavlin, or a combination of those three references.

After a thorough review of the Office Action and the cited references, it appears the only noted “suggestion” to combine references that the Examiner mentions is the desirability touted in Arnaud for the composition’s “enhanc[ed] adhesion, durability, viscosity and hydrophobicity.” See Office Action at 2; Arnaud, col. 1, ll. 53-54. Yet the Examiner fails to explain why these properties would create any suggestion or motivation to combine Arnaud with Ross. Ross discloses a deodorant and antiperspirant composition containing a polyamide gelling agent which clearly would not benefit from, but rather would be hindered by, “enhanc[ed] adhesion, durability, viscosity and hydrophobicity.”

More specifically, Ross unequivocally praises the virtues of *decreasing* adhesion and hydrophobicity: “Desirably, the composition according to the present invention includes a surface active agent, to ensure rinsability of the formula.” Ross, col. 16, ll. 55-57. Indeed, common sense dictates that one of ordinary skill in the art would have

no motivation to make a deodorant composition with the adhesive and hydrophobic properties characteristic of the makeup compositions disclosed in Arnaud, and the Examiner has failed to establish otherwise. As Ross makes clear, the deodorant and antiperspirant composition should ideally have good rinsability. Therefore, no *prima facie* case of obviousness has been established, and Applicants respectfully request withdrawal of the rejection.

The supplementary reference Pavlin does not cure the deficiencies of Ross and Arnaud, as the Examiner has not provided any helpful rationale, as he must, for why one of ordinary skill in the art would be motivated to combine Pavlin with either Arnaud or Ross. As the Federal Circuit has recently emphasized:

The factual inquiry whether to combine references must be thorough and searching. It **must be based on objective evidence of record** . . . . Thus the Board must not only assure that the requisite findings are made, based on evidence of record, but **must also explain the reasoning by which the findings are deemed to support the agency's conclusion.**

*In re Lee*, 277 F.3d 1338, 1342 (Fed. Cir. 2002) (emphasis added). There is simply no indication from the present Office Action that one of ordinary skill in the art would be motivated to combine Pavlin with either Ross or Arnaud. Therefore, Applicants respectfully assert that no *prima facie* case of obviousness can be established based upon the cited references.

**C. Ross in view of Arnaud, and further in view of Mondet**

Claims 64, 65, 67, 68, and 156-186, all of which have been canceled herein, have been rejected under 35 U.S.C. § 103 as obvious over Ross in view of Arnaud, and further in view of U.S. Patent No. 6,180,123 to Mondet et al. ("Mondet"). Furthermore,

new claims 300-317 are not anticipated nor rendered obvious by the combination of Ross in view of Arnaud and further in view of Mondet.

The Examiner admits that neither Ross nor Arnaud discloses “gum as an ingredient of gel.” Office Action at 3. However, the Examiner alleges that “Mondet discloses [a] composition in which alkylated guar gums are used as thickening agents,” and therefore, “it would have been obvious to use the alkylated guar gums (of Mondet) as thickening agents[s] in [the] composition of Ross to enhance stability and to increase viscosity.” *Id.* Mondet cannot cure the deficiencies of Ross and Arnaud, discussed above.

**D. Ross in view of Arnaud and further in view of Ferrari**

Claims 47-49 and 139-141, all of which have been canceled herein, have been rejected under 35 U.S.C. § 103 as obvious over Ross in view of Arnaud, and further in view of U.S. Patent No. 6,402,408 to Ferrari et al. (“Ferrari”). While the Examiner admits that Ross and Arnaud do not teach or suggest hardness of the composition, the Examiner states that Ferrari discloses a composition “containing [a] liquid fatty phase gelled with polyamide . . . [and] values of hardness typically associated with such [a] composition.” Office Action at 3. Thus the Examiner concludes that “it would have been obvious that the composition of Ross possesses the (claimed) values of hardness.” *Id.* Again, Ferrari does not cure the deficiencies of Ross and Arnaud, and therefore Applicants respectfully assert that claims 300-317 are patentable thereover.

**E. Tournilhac in view of Arnaud**

Claim 288, canceled herein, has been rejected under 35 U.S.C. § 103 as obvious over U.S. Patent No. 6,287,552 to Tournilhac et al. (“Tournilhac”) in view of Arnaud.



According to the Examiner, "Tournilhac discloses compositions comprising a polyester and a film-forming polymer . . .," adding that "Tournilhac does not mention oil-soluble polymer[s]." Office Action at 4. The Examiner then attempts to rely on the oil-soluble polymers of Arnaud, stating that "it would have been obvious to add to the composition of Tournilhac, the oil-soluble polymer of Arnaud to enhance adhesion[,] durability, viscosity and hydrophobicity efficacy." *Id.* at 4.

While Applicants disagree with the Examiner's characterization of the references and do not believe a *prima facie* case of obviousness has been established, this rejection is rendered moot by the cancellation of claim 288 herein. Furthermore, Tournilhac, Arnaud, or a combination of the two, do not teach or suggest all of the claim limitations of new claims 300-317, such as, for example, at least one polymer chosen from polymers of formula (I). Therefore, there is no *prima facie* case of obviousness.

### **III. No Obviousness-Type Double Patenting**

Applicants bring to the Office's attention the following copending Application Nos.: 09/618,066 (claim 77); 09/685,577 (claim 78); 09/618,032 (claim 38); 09/685,578 (claim 42); 09/733,898 (claims 174-178); 09/733,897; 10/203,254 (claim 99); 10/129,377 (claim 84); 09/749,036 (claims 84, 177, and 200); and 10/047,987 (claim 134), all of which are referenced below in Table 2. While Applicant does not believe there are any obviousness-type double patenting issues, after consideration of the copending applications listed in Table 2, the claims of these ten applications appear to be the closest in scope to the instant claims.

**IV. U.S. Patent No. 6,497,861 to Wang et al.**

As referenced in the Information Disclosure Statement filed July 24, 2003, Applicant is aware of U.S. Patent No. 6,497,861 to Wang et al. ("Wang"), filed June 21, 2001. However, Applicant does not believe that this patent is prior art with respect to the present application. In this regard, Applicant points out that the instant application was filed on December 12, 2000. Nor does Applicant believe that the claims presented herein define the same patentable invention as any of those of Wang. Hence, Applicant does not believe that there is any interfering subject matter between the present claims and those of Wang.

**V. Commonly Assigned Applications**

Applicant has identified the related copending applications and patents below in Table 2 that were filed prior to December 12, 2000. Applicant does not believe that any of the identified copending U.S. Patent Applications or any relevant publications thereof or relevant PCT publications of a counterpart thereof, describes or suggests the subject matter of the claims of the present application under 35 U.S.C. § 102(e) and/or § 103.

Also listed in Table 2, below, is the publication information (U.S. Published Applications and/or U.S. Patents), if any, that correspond to these copending applications and their dates of publication. Applicant asserts that all of the applications listed in Table 2 that were filed prior to the instant application's priority date were commonly owned by the Assignee at the time the instant invention was made, which instant invention was also subject to assignment to the Assignee. Moreover, Applicant has provided for the Office's convenience the available assignment information in Table

2 or confirmed the obligation of assignment with the assignee, demonstrating that none of these applications, patents, or publications is available as § 102(e)/§ 103 prior art against claims 300-317. See 35 U.S.C. § 103(c).

#### **VI. Patentability over Copending Applications and Patents Issued Therefrom Cited in Information Disclosure Statements**

For the Office's convenience, Applicant identifies in Table 2 below 36 related copending applications, including the instant application, as well as those listed on the PTO Forms 1449 filed on March 20, 2002, and July 24, 2003, or filed herewith, including filing date, assignment, and inventor information. This should assist the Office in assessing any possible issues under statutory double patenting. This information will also allow the Office to address any issues of obviousness-type double patenting not discussed above. Applicant does not believe that any issue with respect to statutory double patenting under 35 U.S.C. § 101 is present with respect to claims 300-317 of the instant application and the claims of any other copending application or patent listed in Table 2. To be sure, however, Applicant provides Exhibit 2, which contains all of the claims of the 36 pending applications, including the instant claims. As the Office can see from Exhibit 2, no other application contains claims which are identical to the instant claims.

**Table 2.**

<b>Attorney Docket No.</b>	<b>U.S. Patent Application No.</b>	<b>U.S. Filing Date/ 371 (c) Date</b>	<b>Inventors</b>	<b>Title</b>	<b>Assignment Recorded (Reel, Frame, Date)</b>	<b>U.S. Publication, Date</b>
05725. 0594-	09/733,899	December 12, 2000	Mohamed KANJI, Carl ORR,	COSMETIC COMPOSITIONS CONTAINING AT	Reel 011723, Frame 0503, on April 20,	U.S. Published Application

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	U.S. Publication, Date
00000			and Carlos O. PINZON	LEAST ONE HETERO POLYMER AND AT LEAST ONE FILM-FORMING SILICONE RESIN AND METHODS OF USING	2001	No. US 2002/011477 3 A1  Dated: August 22, 2002
05725.0595-00000	09/733,900	December 12, 2000	Carlos O. PINZON and Paul THAU	COSMETIC COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE CATIONIC SURFACTANTS AND METHODS OF USING SAME	Reel 011639, Frame 0897, on March 23, 2001	U.S. Published Application No. US 2002/012278 1 A1 (Republished US 2003/008212 6A9 on May 1, 2003)  Dated: September 5, 2002
05725.0656-00000	09/618,066	July 17, 2000	Véronique FERRARI and Pascal SIMON	COMPOSITIONS IN RIGID FORM STRUCTURED WITH A POLYMER	Reel 011057, Frame 0676, on September 11, 2000	N/A: Will not publish
05725.0656-01000	09/685,577	October 11, 2000	Véronique FERRARI and Pascal SIMON	COMPOSITIONS IN RIGID FORM STRUCTURED WITH A POLYMER	Reel 011455, Frame 0203, on January 22, 2001	N/A: Will not publish
05725.0659-00000	09/618,032, issued on June 11, 2002, as U.S. Patent No. 6,402,408	July 17, 2000	Véronique FERRARI	COMPOSITION CONTAINING A LIQUID FATTY PHASE GELLED WITH A POLYAMIDE CONTAINING ESTER END GROUPS	Reel 011057, Frame 0007, on September 12, 2000	U.S. Patent No. 6,402,408  Dated: June 11, 2002
05725.0659-	09/685,578	October	Véronique	COMPOSITION CONTAINING A	Reel 011549, Frame 0914,	N/A: Will not

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	U.S. Publication, Date
01000		11, 2000	FERRARI	LIQUID FATTY PHASE GELLED WITH A POLYAMIDE CONTAINING ESTER END GROUPS	on February 20, 2001	publish
05725.0795-01000	10/182,830	August 2, 2002  371 (c) Date: January 21, 2003	Roberto CAVA-ZZUTI, Véronique FERRARI, Brian MATTOX, Carlos O. PINZON, and Paul THAU	USE OF POLYAMIDE POLYMER IN A MASCARA COMPOSITION COMPRISING AT LEAST ONE SOLID SUBSTANCE HAVING A MELTING POINT OF 45°C OR GREATER	Reel 014040, Frame 0345, on May 7, 2003	U.S. Published Application No. 2003/014783 7 A1  Dated: August 7, 2003
05725.0795-02000	Not yet assigned	February 27, 2004	Roberto CAVA-ZZUTI, Véronique FERRARI, Brian MATTOX, Carlos O. PINZON, and Paul THAU	METHOD OF MAKING A MASCARA COMPOSITION- COMPRISING POLYAMIDE POLYMER AND AT LEAST ONE SOLID SUBSTANCE HAVING A MELTING POINT OF 45°C OR GREATER	Reel 014040, Frame 0345, on May 7, 2003	Not yet published
05725.0806-00000	09/733,896	December 12, 2000	Carlos O. PINZON and Paul THAU	COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE POLYMERS AND METHODS OF USING SAME	Reel 011765, Frame 0183, on April 26, 2001	U.S. Published Application No. US 2002/012003 6 A1 (Republished US 2003/012542 7 A9 on July 3, 2003)  Dated:

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	U.S. Publication, Date
						August 29, 2002
05725.0808-00000	09/733,898	December 12, 2000	Carlos O. PINZON, Paul THAU, and Isabelle BARA	COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE ESTERS AND METHODS OF USING SAME	Reel 011654, Frame 0869, on April 2, 2001	U.S. Published Application No. US 2002/010731 4 A1  Dated: August 8, 2002
05725.0809-00000	09/733,897	December 12, 2000	Carlos O. PINZON and Paul THAU	COMPOSITIONS CONTAINING HETEROPOLYMERS AND METHODS OF USING SAME	Reel 011646, Frame 0966, on April 4, 2001	U.S. Published Application No. US 2002/011133 0 A1  Dated: August 15, 2002
05725.0816-01000	10/203,018	August 5, 2002  371 (c) Date: March 24, 2003	Véronique FERRARI, Richard KOLODZIEJ, Carlos O. PINZON, and Paul THAU	USE OF POLYAMIDE POLYMER IN A MASCARA COMPOSITION COMPRISING AT LEAST ONE INERT FILLER	Reel 014055, Frame 0428, on March 24, 2003	U.S. Published Application No. US 2003/016184 8 A1  Dated: August 28, 2003
05725.0816-02000	Not yet assigned	February 27, 2004	Véronique FERRARI, Richard KOLODZIEJ, Carlos O. PINZON, and Paul THAU	METHOD OF MAKING A MASCARA COMPOSITION COMPRISING A POLYAMIDE POLYMER AND AT LEAST ONE INERT FILLER	Reel 014055, Frame 0428, on March 24, 2003	Not yet published
05725.0817-01000	10/203,254	August 7, 2002	Véronique FERRARI, Carlos O. PINZON,	COSMETIC COMPOSITIONS CONTAINING AT LEAST ONE	Reel 013607, Frame 0258, on December	U.S. Published Application No. US

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	U.S. Publication, Date
		371 (c) Date: December 20, 2002	and Paul THAU	HETEROPOLY- MER AND AT LEAST ONE GELLING AGENT AND METHODS OF USING THE SAME	20, 2002	2003/018578 0 A1  Dated: October 2, 2003
05725. 0819- 01000	10/129,377	May 3, 2002  371 (c) Date: October 16, 2002	Véronique FERRARI	COMPOSITION STRUCTURED WITH A POLYMER CONTAINING A HETEROATOM AND AN ORGANOCELL- ATOR	Filed October 16, 2002. Not yet recorded.	Not yet published
05725. 0832- 00000	09/749,036	December 28, 2000	Véronique FERRARI and Véronique JACQUES	COMPOSITION COMPRISING AT LEAST ONE HETERO POLYMER AND AT LEAST ONE PASTY FATTY SUBSTANCE AND METHODS FOR USE	Reel 011723, Frame 0518, on April 20, 2001	U.S. Published Application No. US 2001/003128 0 A1  Dated: October 18, 2001
05725. 0895- 00000	09/971,028	October 5, 2001	Mohamed KANJI	METHODS OF USE AND OF MAKING A MASCARA COMPRISING AT LEAST ONE COLORING AGENT AND AT LEAST ONE HETEROPOLYM ER	Reel 012411, Frame 0820, on December 28, 2001	U.S. Published Application No. US 2003/008688 3 A1  Dated: May 8, 2003
05725. 0895- 01000	10/413,217	April 15, 2003	Mohamed KANJI	METHODS OF USE AND OF MAKING A MASCARA COMPRISING AT LEAST ONE COLORING AGENT AND AT	Reel 012411, Frame 0820, on December 28, 2001	U.S. Published Application No. US 2003/019861 3 A1  Dated:

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	U.S. Publication, Date
				LEAST ONE POLYAMIDE POLYMER CHOSEN FROM ETHYLENEDIAMINE/STEARYL DIMER TALLATE COPOLYMER		October 23, 2003
05725.0895-02000	10/699,780	November 4, 2003	Sue FENG and Mohamed KANJI	METHODS OF DISPERSING AT LEAST ONE COLORING AGENT USING AT LEAST ONE HETEROPOLYMER	Reel 012411, Frame 0820, on December 28, 2001	Not yet published
05725.0896-00000	10/198,931	July 22, 2002	Mohamed KANJI	COMPOSITIONS COMPRISING AT LEAST ONE HETEROPOLYMER AND FIBERS, AND METHODS OF USING THE SAME	Reel 013410, Frame 0044, on October 21, 2002	U.S. Published Application No. US 2004/001362 5 A1  Dated: January 22, 2004
05725.0920-00000	09/899,909, issued on August 13, 2002 as U.S. Patent No. 6,432,391	July 9, 2001	Isabelle BARA	TRANSPARENT SCENTED SOLID COSMETIC COMPOSITION	Reel 012278, Frame 0077, on October 23, 2001	U.S. Patent No. 6,432,391  Dated: August 13, 2002
05725.0932-00000	09/937,314	September 24, 2001  371 (c) Date: December 6, 2001	Véronique FERRARI	A TRANSFER-FREE MASCARA COMPOSITION COMPRISING AT LEAST ONE VOLATILE SOLVENT AND AT LEAST ONE POLYMER	Reel 012476, Frame 0507, on January 17, 2002	Not yet published



Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	U.S. Publication, Date
05725. 1003- 00000	10/012,029	December 11, 2001	Nathalie COLLIN	COSMETIC COMPOSITION COMPRISING A POLYMER BLEND	Reel 013142, Frame 0645, on August 1, 2002	U.S. Published Application No. US 2003/001276 4 A1  Dated: January 16, 2003
05725. 1004- 00000	10/012,051	December 11, 2001	Nathalie COLLIN	USE OF AT LEAST ONE POLYAMIDE, POLYMER IN A MASCARA FOR RAPIDLY INCREASING THE AMOUNT OF MAKE-UP DEPOSITED ON EYELASHES	Reel 012847, Frame 0285, on April 30, 2002	U.S. Published Application No. US 2002/018903 0 A1  Dated: December 19, 2002
05725. 1005- 00000	10/012,052	December 11, 2001	Nathalie COLLIN	COSMETIC COMPOSITION CONTAINING A WAX AND A POLYMER	Reel 012847, Frame 0264, on April 30, 2002	U.S. Published Application No. US 2002/016833 5 A1  Dated: November 14, 2002
05725. 1018- 00000	10/046,568	January 16, 2002	Xavier BLIN, Véronique FERRARI, and Frédéric AUGUSTE	NAIL POLISH COMPOSITION COMPRISING A POLYMER	Reel 013109, Frame 0731, on July 18, 2002	U.S. Published Application No. US 2002/019216 8 A1  Dated: December 19, 2002
05725. 1020- 00000	10/047,987	January 17, 2002	Véronique FERRARI	COSMETIC COMPOSITION COMPRISING A POLYMER AND	Reel 012910, Frame 0028, on May 17, 2002	U.S. Published Application No. US 2002/017269

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	U.S. Publication, Date
				A FLUORO OIL		6 A1  Dated: November 21, 2002
05725.1187-00000	10/312,083	December 23, 2002  371 (c) Date: March 26, 2003	Patricia LEMANN	COSMETIC COMPOSITION COMPRISING AN EMULSION CONTAINING A LIQUID FATTY PHASE STRUCTURED WITH A POLYMER, AND AN ALKYLENE-OXIDE-CONTAINING EMULSION STABILIZER	Reel 014039, Frame 0976, on March 26, 2003	U.S. Published Application No. US 2003/016180 7 A1  Dated: August 28, 2003
05725.1198-00000	10/450,108	June 11, 2003  371 (c) Date: June 11, 2003	Nathalie COLLIN	COSMETIC COMPOSITION COMPRISING A POLYMER AND FIBERS	Not yet filed/recorded	U.S. Published Application No. US 2004/002863 6 A1  Dated: February 12, 2004
05725.1228-00000	10/466,166	July 14, 2003  371 (c) Date: January 20, 2004	Nathalie COLLIN	COSMETIC COMPOSITION COMPRISING A MIXTURE OF POLYMERS	Filed January 20, 2004. Not yet recorded.	Not yet published
05725.1336-00000	10/459,636	June 12, 2003	Shao Xiang LU and Mohamed KANJI	COSMETIC EMULSIONS CONTAINING AT LEAST ONE HETERO POLYMER AND A SUNSCREEN	Filed October 3, 2003; not yet recorded	Not yet published

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	U.S. Publication, Date
				AND METHODS OF USING SAME		
05725.1337-00000	10/618,315	July 11, 2003	Shao Xiang LU, Terry VAN LIEW, and Nathalie GEFFROY-HYLAND	COSMETIC COMPOSITIONS COMPRISING A STRUCTURING AGENT, SILICONE POWDER AND SWELLING AGENT	Filed August 12, 2003 and January 30, 2004; not yet recorded	Not yet published
05725.1338-01000	10/746,612	December 22, 2003	Shao Xiang LU, Terry VAN LIEW, Nathalie GEFFROY-HYLAND, and Mohamed KANJI	COSMETIC COMPOSITIONS COMPRISING A STRUCTURING AGENT, SILICONE POWDER AND SWELLING AGENT	Not yet filed/recorded	Not yet published
05725.1338-02000	10/747,412	December 22, 2003	Shao Xiang LU and Mohamed KANJI	COSMETIC EMULSIONS CONTAINING AT LEAST ONE HETERO POLYMER AND AT LEAST ONE SUNSCREEN AND METHODS FOR USING THE SAME	Not yet filed/recorded	Not yet published
06028.0018-00000	10/203,375	August 9, 2002  371 (c) Date: August 9, 2002	Nathalie JAGER-LEZER and Jean-Christophe SIMON	COLOURED TRANSPARENT OR TRANSLUCENT COSMETIC COMPOSITION	Reel 013318, Frame 0962, on August 9, 2002	U.S. Published Application No. US 2003/002677 2 A1  Dated: February 6, 2003
06028.0019-	10/203,374	August 9, 2002	Jean-Christophe SIMON	METHOD FOR MAKING A COLOURED	Reel 013321, Frame 0001, on August 9,	U.S. Published Application

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	U.S. Publication, Date
00000		371 (c) Date: August 9, 2002	and Nathalie JAGER- LEZER	MAKE-UP COSMETIC COMPOSITION WITH CONTROLLED TRANSMITT- ANCE	2002	No. US 2003/004436 7 A1  Dated: March 6, 2003

## VII. Conclusion

In view of the foregoing remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

*Thalia V. Warriment, Reg NO. 39,064*  
By: *for Erin C. DeCarlo*  
Erin C. DeCarlo  
Reg. No. 51,688

Dated: May 18, 2004

**Attachments:** Exhibit 1: International Cosmetic Ingredient Dictionary and Handbook ("CTFA") page 606.

Exhibit 2: Pending Claims in Copending Applications

**Information Sources:** CIR: [SQ]

**Chemical Class:** Synthetic Polymers

**Functions:** Binder; Film Former; Viscosity Increasing Agent - Nonaqueous

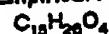
**Technical/Other Name:**

2-Propenol Acid, Polymer with Ethene and Etheryl Acetate

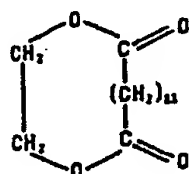
### ETHYLENE BRASSYLATE

**CAS No.** 105-95-3 **EINECS No.** 203-347-8

**Empirical Formula:**



**Definition:** Ethylene Brassylate is the cyclic ester that conforms to the formula:



**Information Sources:** 21CFR172.515, RIFM, TSCA

**Chemical Class:** Esters

**Function:** Fragrance Ingredient

**Reported Product Categories:** Foundations; Moisturizing Preparations; Cleansing Products (Cold Creams, Cleansing Lotions, Liquids and Pads); Personal Cleanliness Products, Misc.

**Technical/Other Names:**

1,4-Dioxacycloheptadecane-5,17-dione  
Ethylene brassylate (RIFM)  
Ethylene Undecane Dicarboxylate

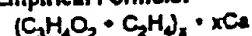
**Trade Name:**

AEC Ethylene Brassylate (A & E Connock)

### ETHYLENE/CALCIUM ACRYLATE COPOLYMER

**CAS No.:** 26445-96-5

**Empirical Formula:**



**Definition:** Ethylene/Calcium Acrylate Copolymer is a copolymer of ethylene and calcium acrylate monomers.

**Information Sources:** 21CFR175.105, CIR: [SQ]

**Chemical Class:** Synthetic Polymers

**Functions:** Binder; Film Former

**Technical/Other Name:**

2-Propenol Acid, Polymer with Ethene, Calcium Salt

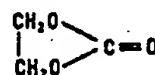
### ETHYLENE CARBONATE

**CAS No.** 96-49-1 **EINECS No.** 202-510-0

**Empirical Formula:**



**Definition:** Ethylene Carbonate is the organic compound that conforms to the formula:



**Information Sources:** JCIC, JCLS

**Chemical Class:** Esters

**Function:** Solvent

**Technical/Other Name:**

1,3-Dioxolan-2-one

### ETHYLENEDIAMINE/STEARYL DIMER DILINOLEATE COPOLYMER

**Definition:** Ethylenediamine/Stearyl Dimer Dilinoleate Copolymer is a copolymer of ethylenediamine and stearyl dimer dilinoleate monomers.

**Chemical Class:** Synthetic Polymers

**Functions:** Oral Care Agent; Skin-Conditioning Agent - Miscellaneous; Viscosity Increasing Agent - Nonaqueous

**Trade Name:**

UNICLEAR (Arizona)

### ETHYLENEDIAMINE/STEARYL DIMER TALLATE COPOLYMER

**Definition:** Ethylenediamine/Stearyl Dimer Tallate Copolymer is a copolymer of ethylenediamine and tall oil dimer acid monomers, and blocked with stearyl alcohol.

**Chemical Class:** Synthetic Polymers

**Functions:** Oral Care Agent; Skin-Conditioning Agent - Miscellaneous; Viscosity Increasing Agent - Nonaqueous

**Trade Name:**

UNICLEAR (Arizona)

### ETHYLENE DICHLORIDE

**CAS Nos.** 107-06-2 **EINECS Nos.** 203-458-1  
1300-21-6 215-077-8

**Empirical Formula:**



**Definition:** Ethylene Dichloride is the halogenated aliphatic hydrocarbon that conforms to the formula:



**Information Sources:** 21CFR165.110, 21CFR172.560, 21CFR172.710, 21CFR172.864, 21CFR173.165, 21CFR173.230, 21CFR173.315, 21CFR175.105, 21CFR573.440, EEC(II-125), FCC, MI-12(3843), TSCA

**Chemical Class:** Halogen Compounds

**Function:** Not Reported

**Technical/Other Names:**

Dichloroethane  
Ethane, 1,2-Dichloro-

### ETHYLENE DIHYDROGENATED TALLOWAMIDE

**Definition:** Ethylene Dihydrogenated Tallowamide is the diamide that conforms generally to the formula:



where RCO- represents the fatty acids derived from hydrogenated tallow.

**Chemical Class:** Amides

**Function:** Viscosity Increasing Agent - Nonaqueous

**Technical/Other Names:**

N,N'-1,2-Ethanedithylbis(Hydrogenated Tallowamide)  
(Hydrogenated Tallowamide), N,N'-1,2-Ethanedithylbis-

### ETHYLENE DILINOLEAMIDE

**Definition:** Ethylene Dilinoleamide is the condensation product of ethylenediamine with Dilinoleic Acid (q.v.).

**Information Sources:** JCIC, JCLS

**Chemical Class:** Amides

**Function:** Skin-Conditioning Agent - Miscellaneous

**Technical/Other Name:**

Condensate of Dilinoleic Acid and Ethylenediamine

### ETHYLENE DIOLEAMIDE

**CAS No.** 110-31-6 **EINECS No.** 203-756-1

The inclusion of any compound in the Dictionary and Handbook does not indicate that use of that substance as a cosmetic ingredient complies with the laws and regulations governing such use in the United States or any other country.